

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

DDR HOLDINGS, LLC

Plaintiff and Counterclaim Defendant

V.

Civil Action No. 2-06CV-42-DF

HOTELS.COM, L.P., et al.

Defendants and Counterclaim Plaintiffs.

**DEFENDANTS' RESPONSE TO PLAINTIFF'S
MOTION TO CONTINUE HEARING ON MOTION TO STAY**

Defendants and Counterclaim Plaintiffs Hotels.com, L.P.; Expedia, Inc.; Travelocity.com LP; Site59.com, LLC; Internetwork Publishing Corporation d/b/a Lodging.com; Neat Group Corporation; International Cruise & Excursion Gallery, Inc.; OurVacationStore.com, Inc.; National Leisure Group, Inc.; and Digital River, Inc. (collectively “Defendants”) hereby submit this Response to Plaintiff’s (“DDR”) Motion to Continue Hearing on Motion to Stay.

In Defendants' Surreply in Opposition to Plaintiff's Motion to Stay, the Defendants alerted the Court that DDR received a Notice of Failure to Comply with Ex Parte Reexamination Request Filing Requirements and had 30 days to remedy the failure of compliance. The 30 day period has since expired without any action by the Plaintiff. Consequently, the Defendants communicated to DDR that the Motion to Stay is now moot. In response, DDR acknowledged that in order to continue their desired reexaminations of the patents-in-suit, it must file new reexamination applications with the Patent and Trademark Office – a process which would only restart the nearly three months of delay this Court and the Defendants have already experienced.

In light of the denied reexamination applications, the Defendants request that the Court deny Plaintiff's Motion to Stay as moot and either (1) convert the currently scheduled hearing on December 7, 2006 to a scheduling conference to discuss resetting the *Markman* deadlines and all other deadlines arising therefrom or (2) order a new date for such scheduling conference.¹

Dated: December 6, 2006

Respectfully submitted,

By: /s/ Neil J. McNabnay

Thomas M. Melsheimer

txm@fr.com

Texas Bar No. 13922550

Neil J. McNabnay

njm@fr.com

Texas Bar No. 24002583

Thomas H. Reger II

thr@fr.com

Texas Bar No. 24032992

FISH & RICHARDSON P.C.

1717 Main Street, Suite 5000

Dallas, TX 75201

(214) 747-5070 (Telephone)

(214) 747-2091 (Facsimile)

Lance Lee

lle@youngpickettllaw.com

Texas Bar No. 24004762

YOUNG, PICKETT & LEE

4122 Texas Blvd.

P. O. Box 1897

Texarkana, TX 75504

(903) 794-1303 (Telephone)

(903) 792-5098 (Facsimile)

Counsel for Defendants and Counterclaim
Plaintiffs

**TRAVELOCITY.COM LP and
SITE59.COM, LLC**

¹ Defendant National Leisure Group, Inc. submits that this action should be dismissed, as Plaintiff apparently does not want to proceed expeditiously, either with this civil action or with the re-examinations that it requested.

By: /s/ Eric M. Albritton

Frederick A. Lorig
fredericklorig@quinnemanuel.com
**QUINN EMANUEL URQUHART
OLIVER & HEDGES, LLP**
865 S. Figueroa Street, 10th Floor
Los Angeles, CA 90017
(213) 443-3000 (Telephone)
(213) 443-3100 (Facsimile)

Michael Carlinsky
michaelcarlinsky@quinnemanuel.com
Edward J. DeFranco
eddefranco@quinnemanuel.com
Eric Huang
erichuang@quinnemanuel.com
**QUINN EMANUEL URQUHART
OLIVER & HEDGES, LLP**
51 Madison Ave., 22nd Floor
New York, NY 10010
(212) 849-7000 (Telephone)
(212) 849-7100 (Facsimile)

Eric M. Albritton
ema@emafirm.com
Texas Bar No. 00790215
ALBRITTON LAW FIRM
P.O. Box. 2649
Longview, TX 75606
(903) 757-8449 (Telephone)
(903) 758-7397 (Facsimile)

Counsel for Defendants and Counterclaim
Plaintiffs
HOTELS.COM, L.P. and EXPEDIA, INC.

By: /s/ J. Thad Heartfield, Jr.

Fay E. Morisseau

fmorisseau@mwe.com

David M. Stein

dstein@mwe.com

MCDERMOTT WILL & EMERY

18191 Von Karman Avenue, Suite 400

Irvine, CA 92612-7108

(949) 851-0633 (Telephone)

(949) 851-9348 (Facsimile)

J. Thad Heartfield, Jr.

thad@jth-law.com

Texas Bar No. 09346800

Law Offices of J. Thad Heartfield

2195 Dowlen Road

Beaumont, TX 77706

(409) 866-3318 (office)

(409) 866-5789 (fax)

Counsel for Defendants and Counterclaim
Plaintiffs

**INTERNETWORK PUBLISHING
CORPORATION D/B/A LODGING.COM
and NEAT GROUP CORPORATION**

By: /s/ Earl Glenn Thames, Jr.

Lawrence G. Kurland
lgkurland@bryancave.com
New York Bar No. 154607
BRYAN CAVE LLP
1290 Avenue of the Americas
New York, NY 10104-3300
(212) 541-1235 (Telephone)
(212) 904-0512 (Facsimile)

George C. Chen
gcchen@bryancave.com
Arizona Bar No. 019704
BRYAN CAVE LLP
Two N. Central Ave., Suite 2200
Phoenix, AZ 85004
(602) 364-7367 (Telephone)
(602) 364-7070 (Facsimile)

Earl Glenn Thames, Jr.
glennthames@potterminton.com
Texas Bar No. 00785097
POTTER MINTON
P.O. Box 359
Tyler, TX 75710
(903) 597-8311 (Telephone)
(903) 593-0846 (Facsimile)

Counsel for Defendants and Counterclaim
Plaintiffs
**INTERNATIONAL CRUISE &
EXCURSION GALLERY, INC. and
OURVACATIONSTORE.COM, INC.**

By: /s/ Lance Lee

Norman H. Zivin

nzivin@cooperdunham.com

Eric D. Kirsch

ekirsch@cooperdunham.com

Tonia Sayour

tsayour@cooperdunham.com

COOPER & DUNHAM LLP

1185 Avenue of the Americas

New York, NY 10036

(212) 278-0400 (Telephone)

(212) 391-0525 (facsimile)

Lance Lee

wlancelee@aol.com

Texas Bar No. 24004762

YOUNG PICKETT & LEE

4122 Texas Blvd.

P.O. Box 1897

Texarkana, TX 75504-1897

(903) 794-1303 (Telephone)

(903) 794-5098 (Facsimile)

Counsel for Defendant and Counterclaim
Plaintiff

NATIONAL LEISURE GROUP, INC.

By: /s/ Sidney Calvin Capshaw, III

Christopher K. Larus
clarus@fulbright.com
Krista D. Barrie
kbarrie@fulbright.com
Ronn B. Kreps
rkreps@fulbright.com
FULBRIGHT & JAWORSKI LLP
2100 IDS Center
80 South Eight St.
Minneapolis, MN 55402-2112
(612) 321-2800 (Telephone)
(612) 321-2288 (Facsimile)

Brett Christopher Govett
bgovett@fulbright.com
Texas Bar No. 08235900
FULBRIGHT & JAWORSKI LLP
2200 Ross Avenue, Ste. 2800
Dallas, TX 75201-2784
(214) 855-8000 (Telephone)
(214) 855-8200 (Facsimile)

Sidney Calvin Capshaw, III
ccapshaw@mailbmc.com
Texas Bar No. 03783900
Elizabeth L. DeRieux
ederieux@mailbmc.com
Texas Bar No. 05770585
BROWN MCCARROLL
1127 Judson Rd., Ste. 220
P.O. Box 3999
Longview, TX 75606-3999
(903) 236-9800 (Telephone)
(903) 236-8787 (Facsimile)

Robert M. Parker
rmparker@cox-internet.com
Texas Bar No. 15498000
Robert Christopher Bunt
cbunt@cox-internet.com
Texas Bar No. 00787165
PARKER & BUNT, P.C.
100 East Ferguson, Ste. 1114
Tyler, TX 75702
(903) 531-3535 (Telephone)
(903) 533-9687 (Facsimile)

Counsel for Defendant and Counterclaim
Plaintiff
DIGITAL RIVER, INC.

CERTIFICATE OF SERVICE

The undersigned certifies that all counsel of record who have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on this the 6th day of December, 2006. Any other counsel of record will be served by first class mail.

/s/ J. Thad Heartfield
J. Thad Heartfield